IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTIETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 16009 of 2004

Between:

G. Chandrakala D/o. G. Chennaiah
R/o. 9/819, Railway Feeders Road, Nellore.

..... PETITIONER

AND

1 The Joint Collector, Nellore.
2 Bharat Petroleum Corporation Ltd., Ranganathan Garden, of 11th Main Road, Post Bag Nos. 1212 & 1213, Chennai-600 040.

3. The Commissioner of Civil Supplies of A.P., Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Declare the order passed in R.c.C.No.59/2004 dt. 25.08.2004 passed by the first respondent herein as illegal, arbitrary and unjust by issuing a writ or order or direction especially one in the nature of writ of mandamus.

Counsel for the Petitioner: MR.M.V.S.SURESH KUMAR

Counsel for the Respondent No.1: GP FOR REVENUE

Counsel for the Respondent No.2: Mr.O.Manohar Reddy

Counsel for the Respondent No.3: G.P. for Civil Supplies.

The Court made the following :

THE HONOURABLE MS.JUSTICE G.ROHINI

WRIT PETITION NO.16009 OF 2004

ORDER:

The petitioner was granted Form-B license under the provisions of A.P. Petroleum Products (Licensing and Regulation of Supplies) Order,1980 in the year 1989 and was distributing LPG cylinders in Nellore Town under the name and style of Shiridi Sai Agencies, as a dealer of the second respondent corporation. While so, on 19.10.1994 the license of the petitioner was suspended on the ground of certain alleged irregularities committed by her. Subsequently an enquiry was conducted and ultimately an order was passed on 31.7.1995 by the first respondent-Joint Collector, Nellore directing restoration of B-form license on condition that the dealer and the oil company should regularize all the temporary connections from whom amounts have been collected in advance or pay back the money so collected within a period of six months from the date of restoration of the license of the dealer. It was also added that in the absence of fulfilling the above conditions within the time

stipulated, extension should be obtained for fulfilling the condition from the licensing authority failing which the licensing authority would be at liberty to take action to terminate the license. The petitioner states that the question of complying with the said conditions would arise only after restoration of the license and therefore, she made as many as 61 representations to the first respondent requesting him to restore license. Ultimately the first respondent vide proceedings dated 3.3.2003 directed the petitioner to produce the explosive license, consent letter of the oil company, APGST & CST Letters issued by the Commercial Taxes and an affidavit duly attested by a notary for further verification. By a subsequent proceedings dated 6.5.2004 the first respondent has again informed the petitioner that the Vice Chairman and Managing Director of the first respondent-Corporation who has been distributing the commodities in the place of petitioner had taken a decision to vacate the godown situated in Shantinagar, Nellore and that the petitioner should produce the documents as specified in the letter dated 3.3.2003 to restore the B-form license. Petitioner made a representation on 24.7.2004 informing the first respondent that she obtained an explosive license, consent letter of the oil company and also affidavit duly attested by a notary. However, the first respondent passed an order on 25.8.2004 stating that the request of the petitioner for restoration of B-form license has been rejected since she failed to fulfill the conditions even after a period of nine years which clearly infers that she has no interest to run the agency and that the licensing authority lost confidence in view of the attitude of the petitioner. Aggrieved by the same, this writ petition has been filed.

I have heard the learned counsel for the petitioner and the learned Government Pleader for the first respondent and the learned Standing Counsel appearing for the second respondent-Corporation.

The learned counsel for the petitioner submits that since the petitioner has complied with all the requirements as per the order of the first respondent dated 31.7.1995, the first respondent is not justified in passing the impugned order alleging that the petitioner has failed to fulfill the conditions. It is further contended that in the light of the several representations made by the petitioner the conclusion of the first respondent that the petitioner has lost interest in running agency is ex facie, erroneous and therefore, the impugned proceedings are liable to be set aside.

It is relevant to note that the impugned order dated 25.8.2004 is an appealable order under Clause-31 of A.P. Petroleum Products (Licensing and

Regulation of Supplies) Order,1980. As a matter of fact after filing this writ petition, the petitioner has preferred an appeal before the Commissioner of Civil Supplies against the impugned order on 13.9.2004. In the circumstances and keeping in view that the issue involves investigation in to questions of fact on appreciation of the material that may be produced by the parties to substantiate their claims, I am not inclined to go into the correctness of the allegations made against the petitioner. Instead I deem it appropriate to direct the Commissioner of Civil Supplies before whom the appeal is pending to consider all the grounds urged by the petitioner and to pass appropriate orders in accordance with law. The learned Standing Counsel appearing for the second respondent-Corporation, under instructions stated that the dealership agreement between the Corporation and the petitioner is still subsisting and the second respondent-Corporation has not issued any notification so far for appointment of dealer in the place of petitioner.

In the circumstances, the writ petition is disposed of with a direction to the 3rd respondent-Commissioner of Civil Supplies to consider the appeal preferred by the petitioner against the impugned order dated 25.8.2004 passed by the first respondent and to pass appropriate orders in accordance with law after affording due opportunity to all the parties concerned, as expeditiously as possible, preferably with a period of six weeks from the date of receipt of a copy of this order. It is made clear that till the disposal of the appeal, the second respondent shall not make appointment of any dealer in the place of the petitioner in Nellore town.

The writ petition is accordingly disposed of. No costs.

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(G.ROHINI,J)

Date: 20.9.2004.

Mdaa.

Copy to:

1 The Joint Collector, Nellore.
2. The Commissioner of Civil Supplies of A.P., Hyderabad.

3. Two C.Cs to G.P. for Revenue, High Court of A.P., Hyderabad (OUT)

4. Two C.Cs to G.P. for Civil Supplies, High Court of A.P., Hydrabad (OUT)

5. Two C.D.Copies.